
UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

Arminda Benavides-Gonzales,

Plaintiff,

versus

Hillary Rodham Clinton, *et al.*,

Defendants.

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Civil Action H-10-438

Findings of Facts and Conclusions of Law

I. *Findings of Fact.*

- A. Arminda Benavides-Gonzales was born in Los Herreras, Nuevo Leon, Mexico, on January 24, 1941. Her Mexican birth certificate was filed June 7, 1941, fewer than five months after her birth.
- B. She also has a Texas birth certificate in her name. That birth certificate reports that she was born in Laredo, Texas, on January 26, 1941. The Texas birth certificate was filed December 14, 1950, nearly ten years after her birth.
- C. Benavides's mother, Teresa Benavides de Gonzales, was raised in San Vicente, Mexico, by Gregorita Salazar and Anastacio Benavides. Growing up, Teresa Benavides believed that Salazar and Benavides were her biological parents. She learned as a young adult that her biological parents were actually Eva Sanchez and Miguel Gonzales.
- D. Gregorita Salazar and Anastacio Benavides are listed as the maternal grandparents on Benavides's older siblings' original birth certificates. Similarly,

they are listed on Benavides's Mexican birth certificate as her maternal grandparents.

- E. When Teresa Benavides learned about her biological parents, she amended Benavides's older siblings' birth certificates to name Sanchez and Gonzales as their maternal grandparents. She also amended them to change her name from Teresa Benavides Benavides to Teresa Gonzales. She never amended Benavides's birth certificate in Texas or Nuevo Leon.
- F. In 1972, Teresa Benavides swore to U.S. Immigration that Benavides's date of birth is January 24, 1941, the date on her Mexican birth certificate.
- G. Benavides was baptized in Agualeguas, Nuevo Leon, Mexico, on December 27, 1941. Her baptismal certificate reports that she was born in San Vicente, Mexico. San Vicente is a small town about five to eight miles from Los Herreras and about 153 miles from Laredo, Texas.
- H. Benavides married Casareo Cantu on March 4, 1962, in Los Herreras, Nuevo Leon, Mexico. Her marriage certificate reports that she was born in Los Herreras, Nuevo Leon, Mexico, and that she is a Mexican national.
- I. In 1945, her mother moved from San Vicente, Mexico, to Laredo, Texas – four years after Benavides's birth.
- J. Benavides presented her Mexican birth certificate to the Social Security Administration in 2004 and to Diplomatic Security officers in 2009.
- K. The family members's handwritten statements repeated family stories of Benavides's birth. They had no corroboration and did not elucidate the location of her birth

- L. Similarly, the depositions of Silveria Benavides-Gonzales, Oziel Benavides, and Roberto Benavides were replete with information they could not have personally known.
- M. Benavides has not shown that she derived United States citizenship through her mother Teresa Benavides de Gonzales. She has no record suggesting that her mother had lived in the United States for ten years before her birth – 1931 to 1941. Her brother has sworn to the United States that she lived in this country in 1916 to 1918 and 1945 to 1956 – dates that coincide with the only Texas school records for Benavides.

2. *Conclusions of Law.*

- A. Benavides is obliged to prove by a preponderance of the evidence that she was born in the United States.
- B. Benavides has no primary evidence of United States' citizenship because her Texas birth certificate was filed nine years after her birth. Her secondary evidence of citizenship is family habitation as recalled more than 50 years later.
- C. The government of Mexico recorded Benavides's birth nearly contemporaneously .
- D. This record of birth in Mexico filed five months after her birth is significantly more reliable than the Texas birth certificate filed after nine years and two later births.
- E. Benavides's birth in Mexico is supported by a Mexican baptismal certificate that reports that she was born in San Vicente, Nuevo Leon, Mexico, and baptized in Agualeguas, Nuevo Leon, Mexico. Her marriage certificate reports that she was born in Los Herreras, Nuevo Leon, Mexico, a neighboring town to San Vicente.

- F. Having twice presented her Mexican birth certificate to the United States and sworn to its authenticity – once as recently as 2004 – Benavides is estopped from now claiming that it is not hers.
- G. Benavides and her siblings have told the court of many things that they cannot have known in the legal sense.¹
- H. The court concludes that Benavides has not derived citizenship through her mother. The law that governs her opportunity for derivative citizenship was adapted on January 13, 1941, approximately two weeks before her birth. Before January 1941, a child born outside of the United States could derive citizenship through a United States citizen parent if that parent has had some earlier residence in the United States, regardless of how long.² In 1941, the law changed to require a United States citizen parent to have resided in the United States for ten years before the child's birth to transmit citizenship.³ Benavides's mother did not reside in the United States but two years before her birth.
- I. Arminda Benavides-Gonzales is not a citizen by birth or any other means.

3. *Conclusion.*

Benavides has blamed the inadequacy of record keeping by the United Mexican States in the 1940s; however, the best contemporary records are those from Mexico. Those records are consistent from birth to marriage. Also, it has abstracted and indexed many of them. Benavides and her mother have had and gotten documents over her whole life. They changed some of them to reflect what they believed at the time. Governments on both sides of the border have cooperated with them.

¹See *Patel v. Rice*, 403 F. Supp. 2d at 565-66 (N.D. Tex. 2005) (interested testimony).

²See 8 U.S.C. § 140(d) (1941) (repealed).

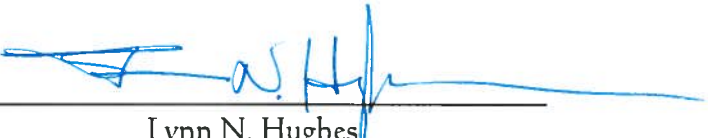
³See Nationality Act of 1940, 8 U.S.C. § 140(d) (1941) (effective January 13, 1941).

Benavides has had 49 years since she became an adult to clarify her nativity. Over the course of those years witnesses have died, papers been lost, and records confused. Her siblings did their best to help her, but their repetition of family stories has no weight.

The government of this country did not simply say that your evidence is too weak to support a decision in your favor – and it was. The immigration officers and Justice-Department lawyers were thorough, intelligent, and considerate.

Arminda Benavides-Gonzales is not a citizen of the United States of America.

Signed on August 21, 2011, at Houston, Texas.



Lynn N. Hughes
United States District Judge